IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

THURSDAY, THE TWENTY FOURTH DAY OF FEBRUARY
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE B.PRAKASH RAO

WRIT PETITION No: 22328 of 1994

Between:

Smt. Pedda Ganga Bai, W/o. Devanna,
R/o. Savargaon (V), Adilabad.District.

..... PETITIONER

AND

1 The Dist. Collector, Adilabad District.
2 The Andhra Pradesh Housing Board, rep.by the Managing Director, Gruhakalpa, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue any writ, order or direction more in the nature of Writ of certiorari and quash the letter No.B-3/324/92 , dt.7-12-1993 issued by the 1st respondent to the direct the respondent to initiate the Land Acquisition Act proceedings for the petitioner's land bearing No.72/24 measuring 5.00 Acres situated at Savargaon of Adilabad Dist. and pay the compensation.

Counsel for the Petitioner: MR.V.MANOHAR RAO

Counsel for the Respondent No.1: GP FOR LAND ACQUISITION

Counsel for the Respondent No.2: MR.J.PRABHAKAR

The Court made the following:

ORAL ORDER:-

Heard Sri V. Manohar Rao, learned counsel appearing for the petitioner and the learned Government Pleader for Land Acquisition appearing for the first respondent and also Sri J.Prabhakar, learned standing counsel appearing for the second respondent.

2. The main grievance of the petitioner in this Writ Petition is against the action of the respondents in not initiating the land acquisition proceedings even though the land was acquired. The petitioner claims that she possess the land through her father, who was landless poor person, was assigned with Ac.5.00 of land in Survey No.72, situate at Savargaon village of Adilabad District through assignment deed, dated 04.05.1961, by the Tahsildar. The petitioner claims that she is the successor to her father after his death and she developed the land in question and she has been in possession. However, the said land was taken over by the respondents herein, for the purpose of constructing houses and as a result of which, she has been deprived of her legitimate propriety rights and either the respondents initiated any land acquisition proceedings or any compensation is paid, which is violative of Article 300-A of the Constitution of India. Even though she has issued a legal notice dated 28.07.1993 to the respondents. The first respondent vide Memo dated 07.12.1993, stated that the said land does not find place either in the SD record furnished by the Assistant Director (S & LRs), Adilabad, or in the list of Survey numbers, of which the

possession was handed over to the second respondent.

3. The case of the petitioner is that in fact, the statement made by the Collector in his letter dated 07.12.1993, is part of such take over and to which the respondents are trying to pay compensation. During the course of the arguments, it is seen that the concerned Mandal Revenue Officer, Adilabad has written a letter, dated 09.09.2004, to the Government Pleader to the effect that the said land does not form part of such take over by the second respondent. Having regard to such disputed question as to whether the land forms part of such take over, at the instance of second respondent, this Court cannot go into the same in exercise of the powers under Article 226 of the Constitution of India.

4. The learned counsel appearing for the petitioner disputes the correctness of the said statement made by the Collector, and states that if proper survey is conducted, the real facts would come out and in the event the land is found part of take over by the second respondent, it necessarily contemplates the initiation of the proceedings under Land Acquisition Act, and also payment of compensation for such acquisition. It is open for the petitioner to approach the competent authority under A.P. Survey and Boundaries Act, 1923 for the purpose of conducting proper survey and identifying the petitioner's land as to whether the same will form part of any take over by the respondents, for the purpose of construction of houses. In the event, if any such finding is given that the petitioner's land is taken over by the second respondent, it is needless to mention that necessarily it contemplates initiation of proceedings, under the Land Acquisition Act, and also payment of necessary compensation.

5. Subject to the above, leaving it open for both sides to take such appropriate steps and also raise such objections or claims, which can be decided by the competent authority at a later point of time.

6. I do not find any ground in the Writ Petition and accordingly the same is dismissed.

24.02.2005

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To

1 The Dist. Collector, Adilabad District.
2 The Managing Director, Andhra Pradesh Housing Board, Gruhakalpa, Hyderabad.

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